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Committee on the Peaceful Uses of Outer Space

Questions on suborbital flights for scientific missions and/or for human transportation

Note by the Secretariat

Addendum

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III. Replies received from permanent observers of the Committee on the Peaceful Uses of Outer Space

International Law Association

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[15 November 2013]

The International Law Association (ILA) is pleased to announce that the topic of suborbital flights has been included on the agenda of its Space Law Committee for the first time and as a separate item in the mandate for that Committee for the period 2012-2016. A first report will be submitted on the matter, together with the other three space law topics under that mandate (namely the 2011 Optional Rules for Arbitration of Disputes Relating to Outer Space Activities of the Permanent Court of Arbitration, the use of satellite data in court and related privacy issues, and space debris), to the 76th ILA Conference, to be held in Washington, D.C. from 7 to 12 April 2014.

The Space Law Committee held preliminary discussions on the topic during 2013. During those early stages, two major issues were identified, namely the need, in the short term at least, to have some legal definition of suborbital flights, and questions relating to the definition and delimitation of outer space, a topic which has arisen repeatedly during ILA debates since the creation of the Space Law Committee. Opinion remains divided on both issues. The discussion will be resumed with an emphasis on the substantive aspects surrounding the four topics of the new mandate at the working session of the above-mentioned Conference. On that occasion, a comprehensive analysis of possible answers to the questions contained in document A/AC.105/1045, annex II, para. 8 (c), will be the object of special attention.

At the 53rd ILA Conference, held in Buenos Aires from 25 to 31 August 1968, a resolution was adopted in which the Conference declared that "outer space", as used in the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, should be interpreted as including all space at and above the lowest perigee achieved by 27 January 1967, when the Treaty was opened for signature, by any satellite put into orbit, without prejudice to the question of whether it may or may not later be determined to include any part of space below such perigee. Furthermore, at the 58th ILA Conference, held in Manila from 27 August to 2 September 1978, a resolution was adopted in which the Conference considered that the space at and above the altitude of about 100 km above sea level had been increasingly acknowledged by States as well as by experts in the field of outer space activities as outer space and suggested that the question as to whether sovereignty above the surface territory of States extended to the lowest boundary of outer space should be made in conjunction with the International Civil Aviation Organization.